

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 48 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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PANTHWADA TALUKA BACHAV SAMITI

Versus

STATE OF GUJARAT  
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Appearance:

MR MH RATHOD for Petitioners  
Mr.S.N.Shelat, Addl.AG with  
Mr.A.D.Oza, GOVERNMENT PLEADER for Respondent No. 1  
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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 20/10/2000

C.A.V. JUDGEMENT

In this petition under Article 226 of the  
Constitution, the petitioners have challenged the  
Government notification dated 31.12.1999 abolishing  
Panthwada in Banaskantha District.

2. The petition has been filed by individuals who are residents of some of the villages which were in erstwhile Panthawada taluka. The petitioners are agriculturists and businessmen.

3. Prior to 15.10.1997 40 villages in question were part of Dhanera taluka in Banaskantha District and upon reconstitution of districts and talukas with effect from 15.10.1997 the said villages were placed either in Dhanera taluka or Dantiwada taluka. Thereafter, by Govt.notification 31.12.1997 a new taluka was created called Panthawada taluka and 40 villages in question were placed in the said taluka. By the impugned notification dated 31.12.1999 Panthawada taluka has been abolished and 24 villages of the said erstwhile taluka have been placed in Dhanera taluka and 16 villages have been placed in Dantiwada taluka.

4. Mr.Mehul Rathod, learned counsel for the petitioners has on factual aspect submitted that during the period of erstwhile Palanpur State (Prior to 1957) the Panthawada was an independent mahal of the then Palanpur State and even the Dantiwada and other villages of newly constituted Dantiwada taluka were falling under the Panthawada mahal. It is further submitted that 40 villages are well connected with Panthawada and due to National Highway and other geographically favourable conditions it is a vast growing business centre of the District Banaskantha. It has also population of 57,000 as per census 1991 and the present population is also 70,000. It is further submitted as under:

(i) The impugned decision has been taken at the behest of sitting MLA and for extraneous considerations all the villagers and their panchayats have passed resolutions to continue Panthawada with the headquarters of Dantiwada.

(ii) The impugned decision has been taken without giving opportunity of being heard to the residents of Panthawada taluka or even the gram panchayats and the villages which formed part of Panthawada taluka before 31.12.1999. Hence, the impugned decision is illegal.

(iii) Mandatory procedure of consultance with district and taluka panchayats was not followed by the Government before issuing impugned notification dated 31.12.1999 as required by the provisions of Section 9 of Gujarat Panchayats Act read with Section 7 of Bombay Land Revenue Code. The impugned decision has been taken solely on the

basis of the opinion of MLA of the area and the MP. Before the notification could be implemented this Court granted interim relief on 5.1.2000 and the Government was also instructed not to make any change.

(iv) Out of 40 village which were originally part of Bhildi taluka as per notification dated 15.10.1997, sarpanchs of as many as 24 villages have filed affidavits in this petition stating that they want continuation of Panthawada taluka. Hence, the impugned decision taken in disregard and against the wishes of concerned gram panchayats is illegal, arbitrary and the villagers of Panthawada taluka are having business relations with Deesa town and other towns and hence continuation of Panthawada taluka was very much required.

(v) The impugned notification is also malafide as the Cabinet Sub Committee known as Review Committee constituted for the purpose of reconstitution of talukas and districts did not recommend for abolition of Panthawada taluka.

(vi) The impugned decision is also malafide because the majority of the villagers in the Panthawada taluka did not support the sitting MLA and the sitting M.P. belonging to the ruling party.

5. On the other hand, Mr. Shelat, Ld. Addl. A.G. with Mr. A.D. Oza, Ld. GP for the Government authorities have submitted that the report dated 14.5.1998 submitted by the Review Committee presided over by the Chief Secretary pointed out that earlier Dhanera taluka in Banaskantha District had population of 1.91 lacs as per 1991 census and 130 villages. The said taluka was trifurcated into Dhanera, Dantiwada and Panthawada taluka resulting into three small talukas. Panthawada taluka had no villages with population of 56,000. Dantiwada taluka had 40 villages with population of 49,000, hence, Panthawada and Dantiwada talukas are required to be merged into one taluka. It is submitted that Panthawada is not a big town and even today gram panchayat is in existence there.

6. Having heard the learned counsel for the parties this Court is of the view that as far as the contentions based on the provisions of Gujarat Panchayats Act and Bombay Land Revenue Code and principles of natural justice are concerned, the same are required to be negatived in view of the decision rendered by this Court

today in Special Civil Application No.10459/99.

7. On the factual aspect, as per well settled legal position, this Court does not sit in appeal over the decision of the Government in such matters of reconstitution/abolition of talukas. It appears to be the stand of the State Government that while undertaking the exercise of reconstituting of districts and talukas, 46 new talukas were constituted. Out of these 46 talukas, 5 talukas were in Banaskantha District but out of those 5 talukas, Bhildi taluka and Panthwada talukas did not fulfill the criteria prescribed regarding area population and the number of villages. In view of the factual aspect on record the decision taken to abolish Panthawada talkuka can not be said to be arbitrary.

8. However during the course of hearing the Court had an occasion to look into the map of the area. The concerned area earlier formed part of the Dhanera taluka and it is now merged with Dhanera taluka or with Danthiwada taluka. A perusal of the said map indicates that there are three villages which are islands within Dantiwada taluka but still they are placed in Dhanera taluka. When this fact was brought to the notice of the learned Addl.Advocate General it was stated that if the panchayats of these village make representations to the State Government for placing them in Danthiwada taluka, the State Government would consider the said representation/s in proper perspective.

9. In view of the above discussion, while dismissing the petition, the Court would like to observe that in case gram panchayats of Panswal, Satarwada and Rampur villages make representation/s to the State Government for their being shifted from Dhanera taluka to Dantiwada taluka, the State Government shall consider the same .

10. In view of the above discussion, subject to the above observations, rule is discharged. Ad interim granted earlier stands vacated. There shall be no order as to costs.

11. At this stage Learned counsel for the petitioners prays that the ad interim relief granted earlier be continued for some time in order to enable the petitioners to have further recourse in accordance with law. Ad interim relief granted earlier shall continue till 15.11.2000.

20.10.2000 (M.S.SHAH,J)